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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 BANK OF AMERICA, N.A.,

8 Plaintiff(s),

9 v.

10 VILLAGE OF AVELLINO HOMEOWNERS  
11 ASSOCIATION, et al.,

12 Defendant(s).

Case No. 2:16-CV-748 JCM (PAL)

ORDER

13  
14 Presently before the court is plaintiff Bank of America, N.A.’s (“BANA”) motion for  
15 default judgment. (ECF No. 33).

16 Obtaining a default judgment is a two-step process. *Eitel v. McCool*, 782 F.2d 1470, 1471  
17 (9th Cir. 1986). First, “[w]hen a party against whom a judgment for affirmative relief is sought  
18 has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the  
19 clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). Federal Rule of Civil Procedure  
20 55(b)(2) provides that “a court may enter a default judgment after the party seeking default applies  
21 to the clerk of the court as required by subsection (a) of this rule.”

22 The choice whether to enter a default judgment lies within the discretion of the court.  
23 *Aldabe v. Aldabe*, 616 F.3d 1089, 1092 (9th Cir. 1980). In the determination of whether to grant  
24 a default judgment, the court should consider the seven factors set forth in *Eitel*: (1) the possibility  
25 of prejudice to plaintiff if default judgment is not entered; (2) the merits of the claims; (3) the  
26 sufficiency of the complaint; (4) the amount of money at stake; (5) the possibility of a dispute  
27 concerning material facts; (6) whether default was due to excusable neglect; and (7) the policy  
28 favoring a decision on the merits. 782 F.2d at 1471–72. In applying the *Eitel* factors, “the factual

1 allegations of the complaint, except those relating to the amount of damages, will be taken as true.”  
2 *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977); *see also* Fed. R. Civ. P. 8(d).

3 BANA filed a motion for entry of clerk’s default as to defendant Via Vinci Revocable Trust  
4 (“Via Vinci”). (ECF No. 22). On November 4, 2016, the clerk entered default as to Via Vinci.  
5 (ECF No. 23).

6 In the instant motion, BANA seeks a default judgment that Via Vinci acquired its  
7 ownership in real property located at 1181 Via Vinci, Henderson, Nevada 89502 subject to the  
8 senior deed of trust recorded against the property on July 29, 2011. (ECF No. 33).

9 After considering the foregoing, the court finds good cause to grant BANA’s motion for  
10 default judgment. All of the *Eitel* factors favor judgment in BANA’s favor. *See Eitel*, 782 F.2d  
11 at 1471–72. BANA will be prejudiced if default judgment is not entered, as it will be left without  
12 recourse to establish its superior claim to title. Further, there is little possibility of dispute  
13 concerning material facts, as all appearing defendants agree on the material facts and governing  
14 precedent. Moreover, BANA has properly complied with Rule 55, and Via Vinci has had ample  
15 opportunity to participate in the litigation. Therefore, the court will grant BANA’s motion for  
16 default judgment.

17 Accordingly,

18 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that BANA’s motion for  
19 default judgment (ECF No. 33) be, and the same hereby is, GRANTED consistent with the  
20 foregoing.

21 IT IS FURTHER ORDERED that BANA shall prepare and file an appropriate judgment  
22 for the court’s signature consistent with the foregoing within fourteen (14) days of the entry of this  
23 order.

24 DATED February 26, 2018.

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UNITED STATES DISTRICT JUDGE